

PATENT APPLICATION

Our Docket No. 980457.ORI

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re App : Rodney W. Salo et al. : October 26, 2004
S.N. : 09/545,536 : Art Unit 3762
Filed : April 7, 2000 : Examiner Mark Bockelman
For : CARDIAC RHYTHM MANAGEMENT
SYSTEM WITH OPTIMIZATION OF
CARDIAC PERFORMANCE USING HEART RATE

TERMINAL DISCLAIMER UNDER 37 CFR 1.321(b) and (c)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Cardiac Pacemakers, Inc., your petitioner, is a corporation organized and existing under the laws of the State of Minnesota and having its principal place of business at 4100 N. Hamline Avenue, St. Paul, Minnesota 55112-5798. Cardiac Pacemakers, Inc. is the assignee of the entire right, title and interest in and to the above-identified application for patent by virtue of an Assignment from the inventors, Rodney W. Salo, Kenneth L. Baker, and Lawrence S. Baumann. The Assignment was recorded in the Patent and Trademark Office on August 1, 2000 at Reel 011017, Frame 0418. Cardiac Pacemakers, Inc. is also the owner of the entire right, title and interest in and to U.S. Patent No.

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6,708,061, issued March 16, 2004.

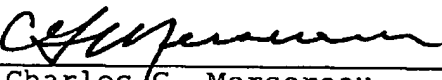
Your petitioner, Cardiac Pacemakers, Inc., hereby disclaims the terminal part of any patent granted on the above-identified application which would extend beyond November 20, 2021, (including 599 days extended under 35 USC 154(b)), the expiration date of U.S. Patent No. 6,708,061. Your petitioner hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to said U.S. Patent No. 6,708,061, this agreement to run with any patent granted on the above-identified application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, the Petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Charles G. Mersereau, the undersigned attorney, Reg. No. 26,205, is a registered attorney of record with full authority to sign this Terminal Disclaimer on behalf of Cardiac Pacemakers, Inc. He has reviewed the evidentiary document referred to above and certifies that, to the best of his knowledge and belief, title to the above-identified application is in Cardiac Pacemakers, Inc.

He hereby declares that all statements herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and that such willful and false statements may jeopardize the validity of this application or any patent issued thereon.

CARDIAC PACEMAKERS, INC.

By 
Charles G. Mersereau
Attorney Reg. No. 26,205

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